Office-Supreme Court, U.S.
FILED
MAR 14 1966
JOHN F. DAVIS, CLERK

In the

Supreme Court of the United States

OCTOBER TERM, 1965

No. 672

DR. HUGO FIELDSMITH,
Petitioner,

v.

TEXAS STATE BOARD OF DENTAL EXAMINERS,
Respondent.

Petition for Rehearing of the Order of January 17, 1966, Denying Petition for Writ of Certiorari.

CURTIS E. HILL,
605 North Ervay Street,
Dallas 1, Texas,
Attorney for Petitioner.

WARLICK PRESS, INC.—1005 VELASCO STREET—DALLAS—MU 7-5555

INDEX

	Page
Introductory Paragraph	1
Jurisdiction	2
Questions Presented in Addition to Those Presented in the Petition for Writ of Certiorari	2
Statement or Argument	5
Reasons for Granting Rehearing and Issuing the Writ	5
Conclusion	6
Certificate of Counsel	7
Certificate of Service	7

Authorities Cited

Frank v. Mangum, 237 U.S. 309, 328 and 329	5
White v. Texas, 309 U.S. 631, 310 U.S. 530	1

In the

Supreme Court of the United States

OCTOBER TERM, 1965

No. 672

DR. HUGO FIELDSMITH,

Petitioner,

v.

TEXAS STATE BOARD OF DENTAL EXAMINERS,

Respondent.

Petition for Rehearing of the Order of January 17, 1966, Denying Petition for Writ of Certiorari

---

To the Honorable Chief Justice of the United States and the Honorable Associate Justices of the Supreme Court of the United States:

Petitioner prays that the Court grant rehearing of its order of January 17, 1966, denying the petition for writ of certiorari, that said order of denial be set aside and that a writ of certiorari issue to review the judgment and order of the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas at Dallas, Texas, in the above entitled cause as prayed for in the petition herein filed on October 15, 1965.

JURISDICTION

An order was made on February 4, 1966, extending the time to file petition for rehearing of the order of January 17, 1966, denying petition for writ of certiorari to and including March 14, 1966. Questions (3) and (4) which immediately follow, are within the Court's jurisdiction. *White v. Texas*, 309 U.S. 631, 310 U.S. 530.

QUESTIONS PRESENTED IN ADDITION TO THOSE PRESENTED IN THE PETITION FOR WRIT OF CERTIORARI

(3) Whether the institution, and thereafter the implementation of all proceedings up to but not including trial, of two criminal cases against Petitioner in the County Criminal Court of Dallas County, Texas, at the instance of Respondent Board, acting by and through its investigator and Assistant Executive Secretary, charging Petitioner with having engaged in the practice of dentistry in Dallas County, Texas on August 3, 1965 and on August 10, 1965 in violation of Article 750 of the Penal Code of Texas because Petitioner's license to practice dentistry in the State of Texas had theretofore been revoked by Respondent Board and the institution, and thereafter the implementation of all proceedings up to but not including final trial, of a suit against Petitioner in a state district court of Dallas County, Texas for temporary restraining order and temporary and permanent injunctions, restraining and enjoining Petitioner from engaging in the practice of dentistry in the State of Texas on the grounds that petitioner had engaged in the practice of dentistry in Dallas County, Texas on

August 3, 1965 and on August 10, 1965 after Petitioner's license to practice dentistry in the State of Texas had been revoked by Respondent Board, when at the time of all such occurrences, this litigation, which is Petitioner's appeal from the order of Respondent Board cancelling and revoking Petitioner's such license, was in process of being filed in this Court and Respondent Board's order recited "provided, however, should this Order of Revocation and Cancellation be suspended or set aside as provided by law, then such Order shall become effective upon the date such Order of the Texas State Board of Dental Examiners is finally adjudicated.", deprived Petitioner of due process of law, and,

(4) Whether the proceedings had before the Respondent Board which consisted of a hearing and an order made pursuant to such hearing cancelling Petitioner's license to practice dentistry, at which hearing all witnesses who testified to the occurrence of acts of conduct which constituted the basis of said order were business acquaintances of a member of Respondent Board and had close daily contact with him in their regular employment; were first examined by said Board member and found in need of dental treatment; were then "selected", hired and furnished State's money to repair to Petitioner for dental treatment to obtain information to be given in testimony at such hearing to cancel Petitioner's license to practice dentistry; with said Respondent Board member participating in said hearing and making of said order with the other five members of Respondent Board and the decision and judgment of the Court of Civil Appeals sustaining and affirming such action and order of Respond-

ent Board, the institution, and thereafter the implementation of all proceedings up to but not including trial, of two criminal cases against Petitioner in the County Criminal Court of Dallas County, Texas, at the instance of Respondent Board, acting by and through its investigator and Assistant Executive Secretary, charging Petitioner with having engaged in the practice of dentistry in Dallas County, Texas on August 3, 1965 and on August 10, 1965 in violation of Article 750 of the Penal Code of Texas because Petitioner's such license had theretofore been revoked by Respondent Board and the institution, and thereafter the implementation of all proceedings up to but not including final trial, of a suit against Petitioner in a state district court of Dallas County, Texas for temporary restraining order and temporary and permanent injunctions, restraining and enjoining Petitioner from engaging in the practice of dentistry in the State of Texas on the grounds that petitioner had engaged in the practice of dentistry in Dallas County, Texas on August 3, 1965 and on August 10, 1965 after Petitioner's license to practice dentistry in the State of Texas had been revoked by Respondent Board when at the time of all such occurrences, this litigation, which is Petitioner's appeal from the order of Respondent Board cancelling and revoking Petitioner's such license was in process of being filed in this Court and Respondent Board's order recited "provided, however, should this Order of Revocation and Cancellation be suspended or set aside as provided by law, then such Order shall become effective upon the date such Order of the Texas State Board of Dental Examiners is finally adjudicated.", deprived Petitioner of due process of law.

STATEMENT OR ARGUMENT

At the time of the filing of the petition for writ of certiorari on October 15, 1965 and at the time of the Court's order of January 17, 1966, denying the petition for writ of certiorari, (3) and (4) above of Questions Presented could not be presented to the Court in these proceedings on account of the specifications and circumscriptions of Rule 23 with respect to the content of a petition for writ of certiorari and the injudicious and erroneous concept that due process of law and its antithetic—deprivation of due process of law—obtained and are included only within the course of a single judicial proceeding, segments of such, or a single segment thereof, while such concepts of due process of law and its antithetic—deprivation of due process of law—in their true aspect and content obtain in and include the entire course of a method of law established and implemented by a state with respect to a member of society whether it is within a continuous or a discontinuous course of judicial or other legal proceedings, segments of such, or a single segment of such. See *Frank v. Mangum*, 237 U.S. 309, 328 and 329. Certified copies of the entire records of all judicial proceedings indicated in (3) and (4) of Questions Presented above will be presented immediately with appropriate motion under Rule 26 and the established practices of this Court with respect to certification of additional parts of the record.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT

In elaboration of the Reasons for Granting the Writ set forth at pages 5 and 6 of the petition for writ of certiorari,

this Honorable Court is the only agency on Earth which can make an authoritative articulate statement in continuous pattern of the system of concepts upon which as a foundation, an Earth-wide total method of societal system can be established which in implementation amain will continue Earth's society in such further progressiveness as can presently be foreseen and reasonably expected, including both how and why such Earth-wide total method of societal system will, in establishment and implementation, implement to the greatest extent possible such cosmic ultimate objective above stated, included in which cosmic ultimate objective will be Earth-wide eternal peace without which, all life on Earth is certain of being ended forever, as global nuclear war, which must inevitably eventuate from the formidable competition between national total methods of societal system which has been for many years in the past, and will continue as far as can be foreseen in the future, in intense obtention, will not only end all life on Earth but also will end the physical conditions on Earth under which life on Earth can exist, and due process of law, the controlling concept of this litigation, is the concept with which any authoritative and articulate statement of a system of concepts for Earth's future total method of societal system must begin.

CONCLUSION

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted of the order of January 17, 1966, denying the petition for writ of certiorari, that upon such rehearing said

order of denial be set aside and that a writ of certiorari be issued to the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas, at Dallas, Texas.

Respectfully submitted,

CURTIS E. HILL,
605 North Ervay Street,
Dallas 1, Texas,
Attorney for Petitioner.

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

.....

Counsel for Petitioner.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing petition for rehearing of the order of January 17, 1966, denying petition for writ of certiorari, has been mailed on March 13, 1966 to Honorable Pat Bailey, Assistant Attorney General of Texas, Box R, Capitol Station, Austin 11, Texas and that a copy of same has been mailed on the same date to Honorable Henry Wade, District Attorney of Dallas County, Seventh Floor, New Dallas County Court House, Dallas 2, Texas, who are attorneys of record for respondent.

.....

Curtis E. Hill